

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No 163 of 1998

in

COMPANY PETITION No 121 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE H.L.GOKHALE Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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TEXTILE LABOUR ASSOCIATION

Versus

O.L. OF AMBICA MILLS LTD

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Appearance:

MR DS VASAVADA for Petitioner  
MR ASHOK L SHAH for Respondent No. 1  
NOTICE NOT RECD BACK for Respondent No. 2  
MR KS NANAVATI with MR CHUDGAR for Respondent No. 3  
DS AFF.NOT FILED (N) for Respondent No. 5,12  
MR JT TRIVEDI for Respondent No. 7  
MR PRANAV G DESAI for Respondent No. 9  
M/S TRIVEDI & GUPTA for Respondent No. 11

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CORAM : MR.JUSTICE H.L.GOKHALE

Date of decision: 30/12/98

## ORAL JUDGEMENT

This Application is filed by the Textile Labour Association seeking a declaration that the workers of Y.S.Spinners Ltd. were the employees/workmen of the company in liquidation and they are entitled to all the benefits that may be received by the workmen of Shri Ambica Mills Ltd. (in liquidation). The Application also prays that a direction be given to the Official Liquidator as well as to the Textile Commissioner (respondent No.12) to process the application forms that may be submitted by the workers of Y.S.Spinners Ltd. under the provisions of the Textile Workers Rehabilitation Scheme.

2. An affidavit of one Shri Manibhai Parmar, who is the Secretary of Textile Labour Association has been filed in support of this Application. In para 3 of this affidavit it is stated that, although the affairs of Unit No.2 were supposed to have been taken over by Y.S.Spinners Ltd., in reality there was no legal transaction. He has annexed a notice dated 24.10.1994 issued by Y.S.Syntex Projects Ltd. to this Application which describes Y.S.Syntex Projects Ltd. as the Attorney Holder of Shri Ambica Mills Ltd. Unit No.2.

3. I have heard Mr.Vasavada in support of this Application as well as Mr. Ashok L. Shah for the Official Liquidator and Mr. Chudgar for the directors of Y.S.Spinners Ltd. who are the successors to Y.S.Syntex Projects Ltd. as well as Mr.J.T.Trivedi for Bank of India. No reply has been filed to this Application by Y.S.Spinners Ltd.

4. By a separate order passed by me on Company Application No.284 of 1997 filed by Y.S.Spinners Ltd., I have held that the Agreements dated 2.11.1979, 6.12.1989 and 9.12.1989 entered into by Y.S.Spinners Ltd. with Shri Ambica Mills Ltd. were void ab-initio. It is also averred in this Application that, though there was a tripartite agreement between employees, Y.S.Spinners Ltd. and Shri Ambica Mills Ltd., no notice of change as such has been given as required by the Bombay Industrial Relations act, 1946. In the circumstances, it will have to be held that the employees concerned of Shri Ambica Mills Ltd. Unit No.2 continue to be the employees of that mill company though the liability for their wages, salaries and other dues for the period they worked for Y.S.Syntex Projects Ltd. (later on known as Y.S.Spinners Ltd.) will be that of Y.S. Spinners only.

5. For the reasons stated above, this Application is allowed and the employees of erstwhile Shri Ambica Mills Ltd. Unit No.2 (in liquidation) are held to be eligible to the benefits under the Textile Workers Rehabilitation Scheme. The benefits, however, will be available only to those employees who were in employment and on pay-roll on the date of the winding-up order. This will, however, exclude those employees who had taken their full dues prior to the date of the winding-up order or those employees who were not originally employees of Shri Ambica Mills Ltd. and were subsequently employed by Y.S.Spinners Ltd./ Y.S.Synthetics Ltd. during their tenure. Consequently, the Official Liquidator will sign the necessary forms given by the employees of Shri Ambica Mills Ltd. on the aforesaid basis and forward them to the concerned authority.

6. This Application is accordingly allowed as above. The Textile Commissioner, who is respondent No.12 herein, is expected to process these forms when forwarded expeditiously.

(KMG Thilake) #####